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### NOTICE OF PUBLIC HEARING

Pursuant to the provisions of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a public hearing, on Friday, May 12, 2017, at 10 a.m., in the First Floor Conference Room, 100 Hancock Street, Quincy, MA relative to the adoption of:

**101 CMR 316.00: Surgery and Anesthesia**  
**101 CMR 317.00: Medicine**  
**101 CMR 318.00: Radiology**

and the repeal of:

**114.3 CMR 16.00: Surgery and Anesthesia Services**  
**114.3 CMR 18.00: Radiology Services**  
**101 CMR 328.00: Chiropractic Services**

EOHHS is proposing to adopt 101 CMR 316.00: *Surgery and Anesthesia*, 101 CMR 317.00: *Medicine* and 101 CMR 318.00: *Radiology*, with amendments from the current regulations governing these rates. These regulations will govern the rates of payment used by governmental units for (i) surgery and anesthesia, (ii) office visits and other general medicine, and (iii) radiology services rendered to publicly-aided individuals by eligible providers, including physicians and eligible midlevel practitioners. The adoption of 101 CMR 316.00 and 101 CMR 318.00 upon the repeal of 114.3 CMR 16.00 and 114.3 CMR 18.00, respectively, is being made to reflect the statutory transfer of authority for rate setting from the former Division of Health Care Finance and Policy in M.G.L. c. 118G to EOHHS in M.G.L. c. 118E. EOHHS is also proposing to repeal 101 CMR 328.00: *Chiropractic Services*, with chiropractic services being integrated as part of the proposed amendments to 101 CMR 317.00: *Medicine*.

The proposed amendments update the payment rates for the services covered by the regulations. The vast majority of the rates are based on the Medicare Resource Based Relative Value Scale System (RBRVS), and the proposed amendments continue to utilize fee schedules for those services based on this system. Under this methodology, rates are calculated by applying a conversion factor to the Medicare-assigned relative value units (RVUs) to derive a rate for each procedure code. In developing the updated rates, EOHHS utilized the 2016 RVUs assigned by Medicare to the procedure codes, and applied one of four conversion factors depending on the service (including an anesthesia conversion factor with two subparts). Utilizing this method, EOHHS estimates that on an aggregate basis there will be no fiscal impact on rates set with RVUs. From an individual procedure code standpoint, the proposed



amendments either increase or decrease the rate depending on the corresponding change to the current 2016 RVU and the revised conversion factor that applies to the code.

The Medicine regulations (101 CMR 317.00) are also being amended to refer to the fees listed in the Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing File for the rates that apply to drugs administered in a physician's office; to refer to regulations at 101 CMR 315:00: *Vision Care Services and Ophthalmic Materials* for rates for five ophthalmological service codes that are being removed from the Medicine regulations (92002, 92004, 92012, 92014, and 92015); and to add licensed chiropractors as eligible providers upon the simultaneous repeal of 101 CMR 328:00: *Chiropractic Services*. Under proposed changes to the Surgery and Anesthesia regulations (101 CMR 316.00), payment provisions and modifiers (AA, QK, QY, QX and QZ) related to personally performed certified registered nurse anesthetist (CRNA) services and physician medical direction of CRNA services are also being added or updated to align with the anticipated adoption by MassHealth of payment for physician medical direction of CRNAs.

Amendments to the regulations also add three additional categories of advanced practice registered nurses (APRNs) as eligible providers for the rates and otherwise update the modifier descriptions and other relevant provisions to align the supervision and collaboration requirements with those of the State licensing board, eliminate modifiers that are no longer necessary, and reflect planned MassHealth changes related to independent billing for APRN services. The revisions will also incorporate certain Healthcare Common Procedure Code System (HCPCS) /Current Procedural Technology (CPT) coding and modifier updates, inclusive of updates previously issued by administrative bulletin; amend a supplemental payment provision; remove outdated or obsolete provisions; and otherwise make revisions to increase clarity and consistency across regulations. 2017 RVUs will be used in calculating rates set by RVUs for the 2017 HCPCS/CPT coding additions previously issued by administrative bulletin.

EOHHS is proposing these amendments to ensure that payment rates are consistent with efficiency, economy, and quality of care, and to incorporate the other changes referenced above. It is estimated that annual aggregate state expenditures will decrease by approximately \$1,025,000 (-0.29% decrease) as a result of the amendments to these three regulations, mainly attributable to the change in the Medicine regulations to refer to 101 CMR 315.00 for rates for the five ophthalmological service codes referenced above. On an aggregate basis, there is no estimated fiscal impact for the general rate updates for the rates set by RVUs. There is no fiscal impact on cities and towns. The amendments do not impose new costs on small businesses; the impact on small business providers will vary based on the volume of services provided.

The proposed amended regulations are planned to go into effect no sooner than August 1, 2017.

Individuals who notify EOHHS of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers may notify EOHHS of their intention to testify at the hearing by registering online at [www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html](http://www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html). Individuals may also submit written testimony by e-mailing [ehs-regulations@state.ma.us](mailto:ehs-regulations@state.ma.us). Please submit electronic testimony as an attached Word document or as text within the body of the e-mail with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by e-mail should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on May 12, 2017.

All persons desiring to review the current draft of the proposed actions may go to [www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html](http://www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html) or request a copy in writing or in person from MassHealth Publications, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by e-mail at [ADAAccommodations@state.ma.us](mailto:ADAAccommodations@state.ma.us) or by phone at 617-847-3468 (TTY: 617-847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed actions taking into account relevant comments and any other practical alternatives that come to its attention.

April 21, 2017